

Application Serial No.: 09/966,324
Amendment and Response to Final Office Action
Attorney Docket No.: 16239-0101
Page 5

REMARKS

With entry of this amendment, Claims 1-12 are pending. Claims 1, 6, and 9 have been amended. Claim 13 is cancelled. Support for the amendments to the claims can be found in the original drawings, specifically Figs. 1, 4, 5, and 6; and pg. 9, lines 3-15; which clearly show that the support rod is connected to a middle portion of the first and second ends. No new matter has been added by these amendments. Applicant respectfully requests reconsideration of the present claims in view of the following remarks.

I. Prior Art Rejections

Claims 1-13 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Hildreth* (U.S. Patent No. 4,327,754) in view of *Hanson* (U.S. Patent No. 4,993,441). Applicant respectfully traverses this rejection.

The present invention, as currently claimed, comprises a compressible roller body wherein said hair roller includes a first notch and a second notch; a base implement including a first end and a second end wherein both said first and second ends each include a cradle for receiving said notches; and a support rod connecting said first end and said second end wherein said base implement is constructed and arranged such that said support rod is connected in a middle portion of said first and second ends; and a method of using the same.

The Examiner states that *Hildreth* discloses a hair treatment device A comprising a supporting hair roller C, a base implement D including a first and second end having a cradle 41 and a broad cut-out shoulder opposite the cradle. A support rod 31 connects the first and second end. The support rod 31 also includes a support arm 20. *Hildreth*, according to the Examiner, disclosed the claimed invention except that the roller includes protrusions instead of notches.

Application Serial No.: 09/966,324
Amendment and Response to Final Office Action
Attorney Docket No.: 16239-0101
Page 6

Hanson, according to the Examiner, shows that notches are an equivalent structure known in the art.

It is respectfully submitted that the combination of *Hildreth* and *Hanson* fails to teach or suggest Applicant's claimed invention. *Hildreth* discloses a base implement having first and second ends that are removably attached to a series of support rods directly at the bottom of the first and second ends. As such, the support rods rest directly against the user's scalp. As a consequence, it is almost impossible to completely treat the full length of the wrapped hair. Furthermore, the expansion of the rod during the permanent process causes tension on the user's roots, which in turn causes that section of the hair close to the scalp to catch, split, and break. In final, the hair is undesirably frizzy and kinky. See, e.g., pg. 1, lines 16-24 and pg. 2, lines 1-12.

By contrast, the present invention provides a support rod connected to *the middle* portion of the first and second ends, away from the bottom edge of the first and second ends. By this construction, the support rod *does not* directly contact the user's scalp, thereby allowing the hair to be fully treated, causing the treated hair to appear "lifted" from the scalp, and giving the hair more overall body. See, e.g., pg. 8, lines 20-25 and pg. 9, lines 1-15. Placement of the support rod in the middle portion of the first and second ends eliminates the negative features associated with *Hildreth* while providing benefits not taught or suggested by *Hildreth*. Accordingly, as *Hildreth* fails to recognize these advantages, it is respectfully submitted that *Hildreth* fails to teach or suggest Applicant's claimed invention.

Similarly, *Hanson* fails to remedy the deficiencies of *Hildreth*. *Hanson* simply teaches putting ends on a roller body. *Hanson* fails to teach or suggest the benefits of putting a support rod in the middle portion of a base implement. Accordingly, because the combination of *Hildreth* and *Hanson* fails to teach or suggest the Applicant's claim invention, Applicant respectfully submits that Claims 1, 6, and 9 are allowable over the prior art of record. Because Claims 2-5, 7-8, and 10-12 depend from Claims 1, 6, or 9, and add additional claim features, it is respectfully submitted that these claims are also allowable over the prior art of record.

RECEIVED
CENTRAL FAX CENTER

SEP 09 2003

OFFICIAL

Application Serial No.: 09/966,324
Amendment and Response to Final Office Action
Attorney Docket No.: 16239-0101
Page 7

II. Conclusion

For at least the reasons given above, Applicant submits that Claims 1-12 define patentable subject matter. Accordingly, Applicant respectfully requests allowance of these claims.

The foregoing is submitted as a full and complete Response to the Final Office Action mailed July 15, 2003, and early and favorable consideration of the claims is requested.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is respectfully requested to contact Applicant's representative at the telephone number listed below.

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,



Roger T. Frost
Reg. No. 22,176

KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530
Phone: (404) 815-6500
Fax: (404) 815-6555
Attorney Docket: 43702-251979